

STATE OF TENNESSEE

PUBLIC CHAPTER NO. 571

HOUSE BILL NO. 1432

**By Representatives Sontany, Rich, Hensley, Sherry Jones, Moore, Ford,
Hardaway, Haynes, Maggart, Dean, Ty Cobb**

Substituted for: Senate Bill No. 1468

By Senators Haynes, Harper, Finney

AN ACT to amend Tennessee Code Annotated, Title 29, Chapter 3, relative to abatement of nuisances.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 29-3-101(a)(2), is deleted in its entirety and replaced with the following:

(2) "Nuisance" means that which is declared to be such by other statutes, and, in addition thereto, means:

(A) Any place in or upon which lewdness, prostitution, promotion of prostitution, patronizing prostitution, unlawful sale of intoxicating liquors, unlawful sale of any regulated legend drug, narcotic or other controlled substance, unlawful gambling, any sale, exhibition or possession of any material determined to be obscene or pornographic with intent to exhibit, sell, deliver or distribute matter or materials in violation of §§ 39-17-901-39-17-908, § 39-17-911, § 39-17-914, § 39-17-918, or §§ 39-17-1003-39-17-1005, quarreling, drunkenness, fighting, breaches of the peace are carried on or permitted, and personal property, contents, furniture, fixtures, equipment and stock used in or in connection with the conducting and maintaining any such place for any such purpose; or

(B) A criminal gang, as defined by § 40-35-121(a)(1), which regularly engages in gang related conduct.

"Gang related conduct" occurs when one or more criminal gang member(s), as defined by § 40-35-121(a)(2), regularly engages in the following:

(i) Intimidating, harassing, threatening, stalking, provoking, or assaulting any person;

(ii) Possessing weapons prohibited under § 39-17-1302 and § 39-17-1307; knowingly remaining in the presence of anyone

who is in possession of such weapons; or knowingly remaining in the presence of such weapons;

(iii) Unlawfully damaging, defacing, or marking any public or private property of another, or possessing tools for the purpose of unlawfully damaging, defacing, or marking any public or private property of another;

(iv) Selling, possessing, manufacturing, or using any controlled substance or drug paraphernalia as defined in § 39-17-402; knowingly remaining in the presence of anyone selling, possessing, manufacturing, or using any controlled substance or drug paraphernalia; knowingly remaining in the presence of any controlled substance or drug paraphernalia; driving under the influence of any controlled substance in violation of § 55-10-401, or being under the influence of any controlled substance in public in violation of § 39-17-310;

(v) Using, consuming, possessing, or purchasing alcoholic beverages unlawfully, including, but not limited to, public intoxication in violation of § 39-17-310 or driving under the influence of alcohol in violation of § 55-10-401;

(vi) Criminal trespassing in violation of § 39-14-405;

(vii) Taking any action to recruit gang members or making any threats or promises to shoot, stab, strike, hit, assault, injure, disturb the peace, or destroy the personal property of anyone as an incentive to join a gang; or

(viii) Taking any action to stop a gang member from leaving a gang or making any threats or promises to shoot, stab, strike, hit, assault, injure, disturb the peace, or destroy the personal property of anyone as an incentive not to leave a gang;

(ix) Engaging in a criminal gang offense as defined by § 40-35-121(3);

(x) Disorderly conduct in violation of § 39-17-305; or

(xi) Contributing to or encouraging the delinquency or unruly behavior of a minor in violation of § 37-1-156.

SECTION 2. Tennessee Code Annotated, Section 29-3-110, is deleted in its entirety and replaced with the following:

(a) If, upon the trial, the existence of the nuisance be established under § 29-3-101(a)(2)(A), an order of abatement shall be entered as part of the judgment or decree of the court, which order shall direct the removal from the building or place where such nuisance exists or is maintained, of all means, appliances, fixtures, appurtenances, materials, supplies, and instrumentalities

used for the purpose of conducting, maintaining, or carrying on the unlawful business, occupation, game, practice or device constituting such nuisance; and shall direct the sale thereof, or such portion thereof as may be lawfully sold, upon such terms as the court may order, and the payment of the proceeds into court to be applied to costs or paid over to the owner, and the destruction of such portion thereof, if any, as cannot be lawfully sold within this state; and the judgment or decree shall perpetually enjoin the defendant from engaging in, conducting, continuing, or maintaining such nuisance, directly or indirectly, by the defendant or defendant's agents or representatives, and perpetually forbidding the owner of the building from permitting or suffering the same to be done in such building.

(b) If, upon the trial, the existence of the nuisance be established under § 29-3-101(a)(2)(B), an order of abatement shall be entered as part of the judgment or decree of the court, which order shall perpetually enjoin the defendant(s) from engaging in, conducting, or continuing such nuisance, directly or indirectly.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: June 17, 2009


KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES


RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 1st day of July 2009


PHIL BREDESEN, GOVERNOR